

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2002-344-C - ORDER NO. 2003-385

JUNE 6, 2003

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| IN RE: Application of Primo Communications, Inc. |) | ORDER GRANTING |
| for a Certificate of Public Convenience and |) | CERTIFICATE AND |
| Necessity to Provide Interexchange |) | MODIFIED |
| Telecommunications Services and for |) | ALTERNATIVE |
| Alternative Regulation. |) | REGULATION |

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Primo Communications, Inc. ("Primo" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. Primo requests that the Commission regulate Primo's long distance business services, consumer card services, operator services and private line service offerings in accordance with the principles and procedures established for relaxed regulation in Orders Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Order No. 2001-997 in Docket No. 2000-407-C (now known as "modified alternative regulation"). The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2001) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Primo to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Primo's application and of the manner and time in which to file the appropriate pleadings for participation in

the proceedings. Primo complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or protests regarding the application were received by the Commission.

A hearing was convened on May 1, 2003, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. Primo was represented by Faye Flowers, Esquire. Jocelyn Boyd, Staff Counsel, represented the Commission Staff.

Mr. Benjamin Ardelean, the Chief Executive Officer of Primo, appeared and testified in support of the Company's Application. Mr. Ardelean has over twenty years experience of management in the technology field, including Information Technology, networks, computer systems and sales. Mr. Ardelean has managed as many as 47 employees and budgets as high as \$35 million.

Mr. Ardelean described Primo's financial, managerial, and technical ability to provide telecommunications services in South Carolina. Primo is a Michigan corporation that has been authorized to transact business within the State of South Carolina. Primo seeks authority to operate as a reseller of intrastate interexchange telecommunications services to the public on a statewide basis and to offer a full range of interexchange telecommunications services on a resale basis. More specifically, Primo seeks authority to provide Message Toll Services, out-WATS, in-WATS, and calling card services.

Regarding the Company's managerial resources, Primo's Chief Executive Officer, Mr. Ardelean, is responsible for day-to-day operations, financial and strategic planning and direction of the Company. According to the record, Mr. Ardelean is currently

Automation and Information Technology consultant for DaimlerChrysler in the Detroit area. Ms. Adelaide Ardelean is the President of the Company. She is responsible for daily operations, marketing, finance and business development. Furthermore, Ms. Ardelean has over five years experience in sales, customer service and market research for media and internet companies. Ms. Ardelean graduated from Walsh College with a Bachelor of Arts in Marketing and a Master of Business Administration. The Company's Customer Service Manager is Regina Jude. She has four years experience in the customer service area.

Mr. Ardelean also testified that Primo has sufficient financial resources to provide telecommunications services in South Carolina. As of December 31, 2002, the Company's total current assets were \$83,530.00. The Company's total current liabilities as of December 31, 2002, totaled \$47,271.00. Moreover, Primo's total equity as of December 31, 2002, was \$50,259.00.

The testimony reveals that Primo operates a customer service center, which handles all such requests, and is available to take customer inquiries from 8:00 a.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturday. According to the testimony, Primo has a policy of responding to any billing or service inquiries within 24 hours. Mr. Ardelean testified that in the event that the inquiry requires further investigation on the part of the service representative, the customer is advised of the reasons for the need for additional time and the customer is given a date certain by which the inquiry will be addressed.

Primo indicates a desire to have its long distance business services, including consumer card services, operator services, and private line services offerings regulated by modified alternative regulation. Primo requested that all of its long distance business service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is Primo's intent by this request to have its long distance business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States. Alternative regulation has now been modified by this Commission through the re-imposition of rate caps with regard to certain "operator assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls.

According to the Application and Mr. Ardelean's testimony, Primo seeks a waiver from the Commission Rules and Regulations. Primo requests a waiver of 26 S.C. Code Regs. 103-610 (1976) so that it may maintain its records outside of South Carolina. Specifically, Primo seeks to maintain its books and records at its headquarters office in Rochester Hills, Michigan. Primo also requests that it be allowed to keep its books and financial records according to the Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

According to Mr. Ardelean, Primo has never had authority denied in any state where it has applied for authority nor has Primo had authority revoked in any state where

it has been granted authority. Additionally, Primo has never been the subject of an investigation nor been fined or sanctioned by a state or federal regulatory body. Finally, Mr. Ardelean testified that Primo will serve the public interest by creating greater competition in the interexchange marketplace; provide consumers with a greater choice of billing options and long distance services for intrastate calls; and expand the tax base and revenue sources for the State.

After full consideration of the applicable law, Primo's Application, and the evidence presented at the hearing, the Commission hereby issues its Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Primo is a privately-held corporation duly organized and existing under the laws of the State of Michigan and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. Primo is a provider of interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Primo has the managerial, technical, and financial resources to provide the services as described in its application.

4. The Commission finds that Primo should be granted a waiver of 26 S.C. Code Regs. 103-610 requiring that reports and records be maintained within the State of South Carolina.

5. The Commission finds it appropriate for Primo to maintain its books and records using Generally Accepted Accounting Principles (GAAP) rather than the Uniform System of Accounts (USOA) as developed by NARUC.

CONCLUSIONS OF LAW

1. The Commission concludes that a Certificate of Public Convenience and Necessity should be, and hereby is, granted to Primo to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the interexchange business services of Primo consistent with the principles and procedures established for alternative regulation of long distance business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997. Following the modification of the alternative regulation by Commission Order No. 2001-997, this form of regulation is commonly referred to by the Commission, Staff, and others as “modified alternative regulation.”

Under the Commission approved modified alternative regulation, the business service offerings of Primo, including consumer card services, operator services and private line services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 issued in Docket No. 2000-407-C, this Commission has modified the previously approved alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme known as modified alternative regulation, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Primo also.

3. With regard to any residential interexchange service offerings of Primo, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. With regard to residential interexchange service rates, Primo shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. Primo shall file its proposed rate

changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of Primo's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

5. If it has not already done so by the date of issuance of this Order, Primo shall file its revised interexchange tariffs and accompanying price lists within thirty (30) days of receipt of this Order. The revised tariffs shall be consistent with the findings of this Order, shall incorporate the changes suggested by the Staff and with which Primo agreed, and shall be consistent with South Carolina law, including the Commission's Rules and Regulations.

6. Primo is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to Primo's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Primo shall resell the services of only those interexchange carriers or LECs authorized by this Commission to provide telecommunications services within the State of South Carolina. If Primo changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Primo shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Primo shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. Primo shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, Primo shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies occurring during non-office hours.

Primo shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form Primo is required to use by which to file the authorized utility representative

information may be found at the Commission's website at www.psc.state.sc.us/forms/default.htm. This form is entitled "Authorized Utility Representative Information." Further, Primo shall promptly notify the Commission in writing if any representatives are replaced.

Primo shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2001).

11. Primo shall conduct its business in compliance with Commission decisions and Orders, both past and future.

12. With regard to Primo's request for a waiver of 26 S.C. Code Regs. 103-610 of the Commission's Rules and Regulations, Primo is hereby granted a waiver of 26 S.C. Code Regs. 103-610. Further, Primo may keep its books and records according to Generally Accepted Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA), as requested.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff with information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15th.

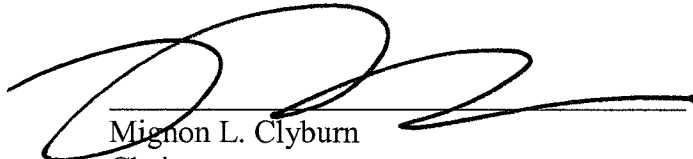
14. Primo shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Primo shall keep financial records on an intrastate basis for South Carolina to comply with the

annual report and gross receipt filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS'." This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year.

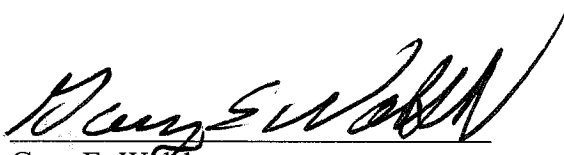
15. Primo is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Mignon L. Clyburn
Chairman

ATTEST:


Gary E. Walsh
Executive Director

(SEAL)